

An aerial photograph of a lake in Estonia. In the foreground, there is a wide, sandy beach with some sparse green vegetation. In the middle ground, a large, multi-story building, completely ruined and without a roof, stands on several tall, white, cylindrical stilts in the water. To the right of the building, a small boat is docked at the stilts, and two people are standing on a small platform or boat nearby. The background shows a dense forest of green trees surrounding the lake. The sky is overcast and grey.

**Estonia**

# DAC 6 Domestic Implementation

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## General Information

<b>Territory</b>	Estonia
<b>Tax authority</b>	Tax and Customs Board
<b>Status of legislation</b>	Implemented  Entry into force on 1 July 2020. Reportable transactions for which first implementation step took place between 25 June 2018 and 30 June 2020 need to be reported by 31 August 2020.
<b>Taxes covered</b>	Direct taxes
<b>Taxes excluded</b>	Indirect taxes (VAT)
<b>Domestic transactions</b>	No

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## Definitions further clarified by guidance

<b>Relevant taxpayer</b>	The taxable person concerned shall be a person to whom the reportable arrangement has been made available for implementation or who is ready to implement it or has implemented its first stage.
<b>Associated enterprise</b>	<p>A related party is a person who participates in the management of the other person in a position that provides an opportunity to significantly influence the activities of another person and the person who holds more than 25 per cent of the share capital or stock or the total number of voting rights of one legal person or at least 25 per cent of the right to receive profit.</p> <p>Related persons are all persons who at the same time are related to the same person in any manner.</p> <p>A person who acts jointly with another person upon exercising the rights arising from voting rights or the rights arising from shareholding shall also be granted the rights specified above of that other person.</p>
<b>Marketable arrangement</b>	<p>A reportable arrangement is an arrangement covering exchange of information, which also concerns another Member State or a third country and for which is present at least one of the criteria specified in the regulation of the minister responsible for the area.</p> <p>A cross-border arrangement is a transaction or chain of transactions involving a Member State of the European Union or a third country and which may affect taxation, exchange of information on financial accounts or identification of the beneficial owner.</p>

**Cross-border arrangement**

**Taxation may be affected by a cross-border arrangement which meets at least one of the following conditions:**

- 1) the persons participating in the arrangement are residents in different states or jurisdictions;
- 2) at least one of the persons participating in the arrangement is a resident in more than one state or jurisdiction at the same time;
- 3) at least one of the persons participating in the arrangement operates in a state or jurisdiction in which he is not resident.

The exchange of information on financial accounts may be affected by a cross-border arrangement which disturbs or impedes the collection or exchange of tax information of financial accounts.

The identification of the beneficial owner may be affected by a cross-border arrangement which makes it difficult or impossible to identify the beneficial owner as defined in the Money Laundering and Terrorist Financing Prevention Act.

The list of criteria for cross-border arrangements which refer to the risk of avoiding taxation, exchange of information on financial accounts or identification of the beneficial owner shall be established by a regulation of the minister responsible for the area.

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**Intermediary**

**An information provider is a person who has provided the service of design, marketing, organisation or making available for implementation or management of a reportable arrangement or a person who has provided assistance or advice upon provision of such service.**

**A reporting information provider is an information provider who meets at least one of the following conditions:**

- 1) the person is a resident in Estonia within the meaning of § 6 of the Income Tax Act;
- 2) the services related to the reportable arrangement are provided through a permanent establishment in Estonia owned by the person;
- 3) the person is founded in Estonia or its activities are regulated by the Estonian legislation;
- 4) the person is a member of an Estonian professional association which unites persons providing legal or tax advisory services.

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**Tax advantage**

The main benefit criterion is complied with if, taking into account all the relevant circumstances, getting a tax advantage is a reasonably expected main benefit or one of the main benefits resulting from the arrangement.



**Made available for implementation**

Decree of Ministry of Finance: Criteria for cross-border arrangements

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**Hallmark**

A cross-border arrangement that presents an indication of a potential risk of tax avoidance.

### 3 Additional hallmarks

**Additional hallmarks**

None.

### 4 Operation of legal professional privilege (lpp)

**Operation of legal professional privilege (LPP)**

An information provider shall have the right not to perform the obligations if performance of the obligations would constitute a violation of the obligation to keep professional secrecy arising from the law.

An information provider shall notify another information provider related to the reportable arrangement or, in the absence of such information provider, the taxable person concerned of a failure to perform the obligations

### 5 Reporting deadline

**Intermediaries**

The information shall be submitted by the information provider to the tax authority within 30 calendar days as of the day following the day on which the reportable arrangement becomes available for implementation, as of the day following the day when the reportable arrangement becomes ready for implementation or the day on which the first act was made for implementation of the reportable arrangement, dependent on which day arrives earlier.

Every three months the information provider shall submit new or additional information with regard to such reportable arrangement that has been developed, marketed, ready for implementation or available in a form that does not require significant adjustment for implementation.

The information provider shall submit information for the first time by 31 August 2020 for such reportable arrangements the implementation of which was commenced within the period of 25 June 2018 until 30 June 2020.

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**Users (where LPP applies)**

The information provider shall be the taxable person concerned, where the person who has provided the service related to development, marketing, making available for organization of its implementation or management of a reportable arrangement, has no obligation to provide information on such arrangement in any of the Member States or if there is no such person.

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## Reporting principles for intermediary

**Circumstances in which intermediary is obliged to report**

Not specified.

Where there is more than one accountable taxable person concerned, the information shall be submitted to the tax authority by the taxable person concerned who has agreed with the information provider to develop the reportable arrangement or, in the absence of such person, by such taxable person concerned who manages the implementation of the arrangement.

**Obligation to inform user what data was communicated**

No

**Priority of reporting where multi member state reporting obligations exist**

**If a taxable person is required to report in more than one Member State, one of which is Estonia, and the connection with Estonia appears first in the list below, the taxable person shall submit the information to the Tax and Customs Board. The connection of a taxable person with a Member State may be as follows:**

- 1) the taxable person is a resident thereof;
- 2) the taxable person has a permanent establishment there, which benefits from a reportable arrangement;
- 3) the taxable person receives income or earns profits there, but is not resident there and has no permanent establishment there;
- 4) the taxable person is active there but is not resident there and has no permanent establishment there.

**Circumstances under which intermediary not required to report**

Where there is more than one accountable taxable person concerned pursuant to this Chapter, the information shall be submitted to the tax authority by the taxable person concerned who has agreed with the information provider to develop the reportable arrangement or, in the absence of such person, by such taxable person concerned who manages the implementation of the arrangement.

The taxable person concerned shall have the right not to perform the obligations if he taxable person has evidence that the obligations have been performed by another taxable person concerned.

**What will the tax authorities provide for the notification received**

Not specified

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## Reporting principles for taxpayer

### Circumstances in which taxpayer is obliged to report

#### The relevant taxpayer is obliged to report if:

- a) no intermediary was involved in the design, marketing, organizing or making available for implementation or managing the implementation of a reportable cross-border arrangement; or
- b) he has been notified by the intermediary that the intermediary is bound by legal professional privilege.

### Priority of reporting where multiple taxpayers are involved

Where there is more than one reporting information provider regarding the same reportable arrangement, the information provider shall have the right to disregard the obligations if the information provider has evidence that the obligations have been performed by another reporting information provider.

If the information provider becomes liable for reporting obligation in more than one Member State, one of which is Estonia, and the connection with Estonia is first on the list below, the information provider shall submit the information to the Tax and Customs Board.

The connection between the information provider and the Member State may be the following:

- 1) the information provider is a resident thereof;
- 2) the information provider has a permanent establishment there through which it provides services related to the reportable scheme;
- 3) the information provider is established there or its activities are subject to the legislation of that state;
- 4) the information provider is a member of a professional association of that state, which unites persons who provide legal or tax advisory services.

### Circumstances under which taxpayer not required to report

Where there is a multiple reporting obligation, the relevant taxpayer shall be exempt from filing the information if it has proof, in accordance with national law, that the same information has been filed in another Member State

### Proof that reporting obligation is satisfied by other taxpayer

Not specified

## 8 Reporting principles applicable to all

**Language** Not specified

## 9 Penalties

**Circumstances in which penalties may apply** Incomplete, late filing or non-filing.

**Amount** In the case of a failure to perform the obligations of the information provider, the tax authority may set an additional term for the performance of obligations and issue a warning of imposing penalty payment.

In order to enforce the performance of the obligations the amount of penalty payment may not exceed 3,300 euros, whereas it may not exceed 1,300 euros for the first event and 2,000 euros in the second event

## 10 Country specifics

**Country specifics / deviation from EU** None.



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